

E-002/M-92-476 ORDER REQUIRING REFILED REPORT

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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In the Matter of Northern States
Power Company's Compliance
Filing, a Report on
Interruptible Rate Design

ISSUE DATE: October 20, 1992

DOCKET NO. E-002/M-92-476

ORDER REQUIRING REFILED REPORT

PROCEDURAL HISTORY

On November 27, 1991, the Commission issued its FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in Northern States Power Company's (NSP's or the Company's) most recent rate case, Docket No. E-002/GR-91-1. In that Order, the Commission directed NSP to file a study regarding various interruptible load issues as part of its next rate case filing or by June 1, 1992, whichever would come first.

On February 19, 1992, the Commission issued its ORDER AFTER RECONSIDERATION. The Commission rejected NSP's request to defer NSP's interruptible load study and report requirement to the resource planning docket. The Commission noted that the interruptible load issue was critical to the immediate goal of setting just and reasonable rates in the rate case proceeding and stated that the information contained within NSP's interruptible load study must be available for consideration within the rate case. The Commission also found that it was unnecessary to clarify its prior Order regarding the Company's meeting with interested parties. The Commission cited its long-standing and well-known policy of encouraging parties to cooperate regarding controversial or first-time filing requirements and stated that such a practice could save time and effort for all parties concerned. The Commission stated that interaction during the development of filings can often prevent future misunderstandings, problems and possible litigation. The Commission encouraged interested parties to meet with NSP regarding the Company's filing.

On June 1, 1992, NSP filed its Report on Interruptible Rate Design.

On July 13, 1992, the Board of Water Commissioners of the City of St. Paul (Water Board) filed comments on the Company's report. The Water Board argued that NSP failed to examine alternative pricing options for interruptible load as required by the Commission's November 27, 1992 Order. The Water Board recommended that the Commission reject the report and require NSP to comply with the November 27, 1992 Order before filing a new rate case.

On July 17, 1992, Champion International (Champion) filed its comments on the report asserting that it was incomplete and non-responsive to the Commission's November 27, 1991 Order. Champion recommended that NSP be required to resubmit a more comprehensive study before being allowed to file a new general rate case.

On July 20, 1992, the Residential Utilities Division of the Office of the Attorney General (RUD-OAG) filed comments regarding the Company's report. The RUD-OAG asserted that the report failed to address several requirements of the Commission's Order. The RUD-OAG noted, for example, that the report did not quantify the effects of various changes in the terms and conditions of the tariff and contracts as ordered by the Commission. The RUD-OAG recommended that the Commission reject the report and require the Company to provide the information requested in the Order within 60 days.

On July 20, 1992, the Minnesota Department of Public Service (the Department) filed comments on the Company's report. The Department stated that the report was deficient in several areas, including its failure to directly discuss several of the issues required in the Commission's Order, e.g. problems with varying hours of interruption, interruption priorities, and different advanced notices. The Department recommended that the Company be required to provide more detail in estimating its optimal level of interruptible load in its next general rate case.

On July 30, 1992, North Star Steel (North Star) filed reply comments to the comments of other parties. North Star argued that NSP's report was inadequate and should be rejected.

On July 30, 1992, the Department filed its reply comments. The Department agreed with the other parties that NSP's report was deficient and did not cover the issues that the Commission ordered the Company to address.

On July 30, 1992, NSP filed reply comments stating its belief that it has followed the spirit and intent of the Commission's Order and has provided the required information. The Company indicated that if the Commission wanted additional information, it would have to give the Company further guidance regarding the type of information and the level of detail required.

On October 8, 1992, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

BACKGROUND

Of ultimate consequence to the parties is how NSP's rates for interruptible service will be designed. In its most recent rate case, NSP proposed interruptible rates based in part on a value-of-service concept while some of its major interruptible service customers, Champion, North Star, and Metalcasters of Minnesota supported a cost of service approach to pricing interruptible load. Briefly, the value-of-service pricing concept favored by NSP determines a value for interruptible load viewed as a source of supply; the cost of service approach favored by the consumers views the interruptible load as a utility service. A principal result of adopting the cost of service approach would be to increase the interruptible discount, i.e. lowering the cost of electricity for the interruptible customers.

In its November 27, 1991 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in NSP's most recent rate case (Docket No. E-002/GR-91-1), the Commission stated that it was not convinced that a significant increase in the interruptible discount was reasonable at this time, but would like this issue to be addressed in the future and explore alternative interruptible rate designs.

To that end, the Commission ordered NSP to study various interruptible rate design and pricing options, and file a report in its next rate case or by June 1, 1992, whichever would come first. NSP 1991 General Rate Case, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, Docket No. E-002/GR-91-1 (November 27, 1992) Ordering Paragraph 14 on page 93.

In its Order, the Commission explained its expectations for the study and report in detail. The Commission specified that the study should address, at a minimum, effects of different advance notice provisions, initial contract periods and cancellation provisions, frequency and duration of interruptions, size of interruptible load, priority of interruptions, and penalties for failure to interrupt. The Commission also required NSP to provide a discussion of the interruptible potential on its system and what is the optimal level of interruptible load based on its demand side management (DSM) goals. The Commission encouraged NSP to seek input from other interested parties in conducting its study and preparing its report. NSP 1991 General Rate Case, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, Docket No. E-002/GR-91-1 (November 27, 1992) page 80 and Ordering Paragraph 14 on page 93.

In addition, the Commission noted that the record indicated that NSP limits the number of hours of interruption, and perhaps other similar conditions, in current interruptible contracts with its

customers. The Commission expressed concern about the potential for unequal treatment of customers under such a policy, since some customers may receive more favorable interruption terms than others who are paying the same rates. As a result, the Commission directed NSP to include in its report information on what types of provisions it has in existing contracts and whether the provisions are reasonable. NSP 1991 General Rate Case, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, Docket No. E-002/GR-91-1 (November 27, 1992) page 81 and Ordering Paragraph 14 on page 93.

SUBJECT OF THIS ORDER

At issue in this Order is whether NSP's June 1, 1992 Report on Interruptible Rate Design complied with the Commission's November 27, 1991 Order in Docket No. E-002/GR-91-1 and, if not what the Commission should do to assure timely compliance.

1. Evaluation of NSP's Report

Ordering Paragraph 14 of the Commission's November 27, 1991 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in Docket No. E-002/GR-91-1 states:

14. As part of its next rate case filing or by June 1, 1992, whichever comes first, NSP shall study various interruptible rate design and pricing options and shall file a report *as described in the text of this Order.* (Emphasis added.)

In the text of its Order at page 80, the Commission explained its expectations for the study and report in detail. The Commission specified that the study should address, at a minimum,

1. effects of different advance notice provisions,
2. initial contract periods and cancellation provisions,
3. frequency and duration of interruptions,
4. size of interruptible load,
5. priority of interruptions, and
6. penalties for failure to interrupt.

The Commission also required NSP to provide a discussion of

1. the interruptible potential on its system and
2. what is the optimal level of interruptible load based on its DSM goals.

The Commission encouraged NSP to seek input from other interested parties in conducting its study and preparing its report. NSP 1991 General Rate Case, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, Docket No. E-002/GR-91-1 (November 27, 1992) page 80 and Ordering Paragraph 14 on page 93.

Having reviewed the Company's report, the Commission agrees with the commenting parties that it is deficient. As indicated by the parties' comments, the deficiencies are significant and extensive. They include the following:

1. failure to provide sufficient information to determine how the Company derived its interruptible load goals from the qualitative description of engineering economics provided in the filing;
2. failure to directly discuss several issues required in the November 27, 1991 Order including the problems with varying hours of interruption, interruption priorities and different advanced notices;
3. failure to discuss how it would estimate its optimal interruptible level, given the theoretical framework it has developed;
4. failure to adequately examine alternate rate design and pricing options;
5. failure to provide supporting information to properly evaluate conclusions reached by the Company; and
6. failure to tie its new interruptible proposals to a verifiable methodology.

Accordingly, the Commission finds that the report is inadequate for its intended purpose: to serve as an information base for evaluating the interruptible rate issue during NSP's next rate case. The next question is what the Commission should do at this time to see that its purpose is achieved in this regard.

2. Curative Action

NSP proposed that the Commission allow it to refile the report within 60 days of October 8, 1992, the date on which the Commission heard argument on this matter. The Company requested that the refiling be made a filing requirement of its next rate case but that it not be required to refile until December 8, 1992. The Company explained that it did not want to alter its plan to file its rate case on November 2, 1992 but was willing to accept that the refiled report would be considered a filing requirement of the rate case.

Once a general rate case is filed, proposed rates go into effect within 60 days unless the Commission suspends them. Minn. Stat. § 216B.16, subd. 1 and 2 (1990). If proposed rates are suspended, the Commission must adopt interim rates within 60 days of the rate case filing. Minn. Stat. § 216B.16, subd. 3. (1990). In the normal course of processing a rate case, the Commission first determines the adequacy of a Company's filing and whether to suspend proposed rates and refer the matter to the Office of Administrative Hearings (OAH) for contested case proceedings and then, at a subsequent separate hearing no later than 60 days after the rate case was filed, considers and adopts interim rates. The Commission directs significant attention to analyzing the filings and considering the issues involved in these decisions. The problem with the Company's proposal to file its rate case on November 2 and refile its interruptible design report on December 8, 1992 is that this would give the Commission and the parties less than a month, at the most, to evaluate the refiled report: December 8 to January 2. To get even that limited time for evaluation of the refiled report, the Commission would have to delay deciding on the adequacy of the filing until the last possible moment, i.e. 60 days from the filing date, and decide that issue at the same meeting at which it determined appropriate interim rates. Further, since a rate case must be decided on the merits within ten months of being filed, the parties would have a reduced time period in which to litigate the matter and the Commission would have less time to deliberate and resolve the merits of the complex interruptible rates issue.

In short, the Company's proposal would compound the disruption already caused to the Commission's plan to develop a good starting point for examining this issue in the rate case.

Against the manifest difficulties that NSP has caused and would cause for the parties and for the Commission, the Company cited its desire to file its rate case on November 1, 1992 and have its interim rates approved in due course. In so doing, the Company overstated the importance of its rate case planning schedule. The Company failed to file an adequate report despite the Commission's detailed instructions in the November 27, 1991 Order and further failed to rehabilitate its report with supplemental

information after the parties' comments underlined the report's inadequacies. The Company now complains that requiring it to refile an acceptable report in conjunction with its next rate case filing is unreasonable. The Company's argument is unconvincing.

3. Commission Action

In these circumstances, the Commission will require NSP to refile the report required by the November 27, 1991 Order. The Company will include the information identified in Ordering Paragraph 1 of this Order. An acceptable refiled report will be a filing requirement for the Company's next rate case and must be filed at the time the Company files its general rate case. Inadequacy of the refiled report will render the rate case filing unacceptable.

ORDER

1. Northern States Power Company (NSP or the Company) shall refile the Interruptible Rate Design Report required by the Commission's November 27, 1991 Order in Docket No. E-002/GR-91-1. The refiled report shall be a unified document meeting the requirements of the November 27, 1991 Order and shall include the information provided in the Company's June 1, 1992 filing augmented with the following information:
 - a. a detailed qualitative explanation of how its optimal interruptible load goals are estimated from the engineering economics that the Company uses and why the goals it has provided should be considered optimal;
 - b. a discussion of how the Company's load goals interact with its total demand side management (DSM) forecasts;
 - c. a discussion and analysis of findings and how different options might help determine the best price and design of interruptible rates, based on an examination of interruptible service contracts offered by other utilities and information from other sources including input from its customers; the specific contract terms to be examined are: advance payment provisions; contract periods; cancellation periods; frequency and duration of interruptions; priority of interruptions; and penalties for failure to interrupt.
 - d. an explanation of why offering various provisions would or would not help facilitate the attainment of its interruptible and DSM goals;

- e. a review of what interruptible pricing options are offered by utilities in other jurisdictions and an examination and presentation of pricing options including cost of service, capacity purchases from the grid and marginal cost, and other pricing options that the Company believes appropriate;
 - f. a discussion of the weight it has given to the factors used to determine the difference in value of the interruptible discount per kw/year compared to the combustion turbine proxy;
 - g. a comparison of the contracts the Company has with interruptible customers on key issues of interest to the customers (e.g. supply characteristics and performance requirements, and any other contract provisions that impact upon the value of the customer's interruptible load) and an explanation of why each such term is reasonable.
- 2. NSP shall file its augmented Interruptible Rate Design Report with its next general rate case filing.
 - 3. NSP's augmented Interruptible Rate Design Report shall be a filing requirement for the Company's next rate case.
 - 4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)